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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Advisory services in the field of human rights, including the Voluntary Fund for Technical Cooperation in the Field of Human Rights

Report of the evaluation mission on the support project for the Office of the Presidential Adviser for the Promotion and Protection of Human Rights of Colombia*

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* This document contains the report of the evaluation mission dated 15 December 1992, as well as the comments transmitted by the Government on 13 August 1993.

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I. INTRODUCTION

1. The Government of Colombia and the Bogotá Office of the United Nations Development Programme (UNDP) agreed to conduct an evaluation mission on the support project (COL/91/017) for the Office of the Presidential Adviser for the Promotion and Protection of Human Rights (hereinafter referred to as the mission), composed of three persons: a representative of the Government (Mr. Eduardo Suescún Monory), a representative of UNDP from the Inter-American Institute of Human Rights and a representative of the United Nations Centre for Human Rights.

2. The mission began its work in Bogotá on 7 December 1992 and continued without interruption until 14 December 1992. In carrying out its activities, the mission received invaluable cooperation from UNDP, the Government, other public State institutions and a substantial number of non-governmental organizations and individuals. Only in the case of the Office of the Attorney-General of the Nation was the mission unable to hold the meetings it had requested.

3. At the outset, the mission agreed to take its decisions by consensus, to draw up its programme of work with complete independence and, in accordance with UNDP's usual practice whereby the UNDP representative assumes responsibility for mission coordination, to appoint Mr. Elizondo as coordinator of the mission.

4. In exercise of its powers, the mission formulated its programme of work, consisting of a series of meetings with public authorities, representatives of non-governmental organizations, eminent figures from the private sector connected with human rights issues and working groups under the leadership of the Office of the Presidential Adviser for the Promotion and Protection of Human Rights (hereinafter referred to as the Office of the Presidential Adviser) in accordance with the programme of work set out in the annex to this report. The mission also decided to make a field visit to Cali in order to evaluate the programmes for the promotion and protection of human rights which the Office of the Presidential Adviser had established in that city.

5. The mission compiled and analysed a considerable amount of documentation in the form of legislation developing the constitutional norms and other legal provisions in force. It also had access to a wide range of documentation on projects carried out by the Office of the Presidential Adviser. Lastly, the mission was provided with studies, publications and documents prepared by other Government agencies and by the non-governmental organizations with which it met. To this documentation should be added the content of the meetings held with the various protagonists and participants.

6. The mission also decided that its evaluation report should be fairly flexible in determining whether or not the results and objectives initially contemplated in the project drawn up by UNDP had been achieved, since there was an evident disproportion between the terms and stated goals of the project and the resources and possibilities of the Office of the Presidential Adviser in the context of the actual human rights situation in Colombia.

7. For the same reason, the mission considered it appropriate to flesh out the evaluation of that Office's activities by an examination of the salient features of the human rights situation in the country. This approach explains the programme of work carried out by the mission, which included meetings of various kinds in an attempt to maintain a balance between the governmental and non-governmental sectors, both being concerned with human rights questions in the country.

8. This report analyses the activities for the promotion and protection of human rights conducted by the Office of the Presidential Adviser with support from UNDP (sections II and III). Regarding promotion of human rights (section II), consideration is given to advisory activities and coordination, as well as education activities (understood as being activities of dissemination and non-formal education, training and formal education). With respect to protection activities (section III), an analysis is made of the handling of cases and the provision of good offices. All these activities of the Office of the Presidential Adviser are dealt with at three successive levels of analysis: firstly, a straightforward description of the activities carried out under each of these headings; secondly, an evaluation of those activities; and, thirdly, partial conclusions under each heading. Lastly, section IV sets out general conclusions and recommendations addressed to the Office of the Presidential Adviser, to other public authorities and to the international community, with the aim of designing a plan of activities in the human rights field for the immediate future that is adjusted as closely as possible to the priorities which the human rights situation in the country appears to demand.

II. PROMOTION ACTIVITIES

A. Advisory activities and coordination

9. The Office of the Presidential Adviser was conceived from the very beginning as a permanent body advising the President of the Republic, the Government and the State in general with regard to the formulation and implementation of policies for the promotion and development of human rights.

10. This function was and continues to be particularly relevant, since the crisis created by the persistent violence in the country necessitates a study of the situation and a periodic review and implementation of policies to ensure the enjoyment of human rights.

11. Thus, the Office of the Presidential Adviser organized itself to provide immediate advice to the President of the Republic as chief of State, chief of Government and supreme administrative authority of the nation.

12. The Office has concerned itself with studying and recommending various policies ranging from recommendations for the creation of a human rights culture to the promotion of human rights at the constitutional level.

13. During its meetings, the mission learned of the participation of the Office in the process of formulating proposals concerning the content of the future Constitution. Particular emphasis should be placed on the interest shown by the Office in establishing the institution of Ombudsman (Defensor del Pueblo).

14. On the other hand, the mission did not receive any detailed information on other advisory activities which the Office might currently be conducting.

15. In the area of analysis and diagnosis of human rights problems, the Office has promoted a number of studies, among which mention may be made of "Let us pacify peace", a work published in 1992 by the Commission for Overcoming Violence set up by the Offices of the Advisers for Peace and Human Rights.

16. However, it can be seen from the mission's observations that this advisory function is only just beginning. Clearly, the commitment to design and formulate human rights policies in Colombia is of the utmost importance, not only because of the fact that the human rights situation is one of the country's main problems, but also because of the complexity and urgency of developing such policies.

17. The formulation of these policies requires an in-depth study of national realities, and in particular the problem of violence, which is the main factor in the increase of human rights violations. A study of such scope can only be carried out through a systematic analysis by the Office of the Presidential Adviser of the various phenomena constituting violence, the different forms of human rights violations and the functioning of the State.

18. Following an in-depth analysis of human rights problems, an effort must be made to study the various possible solutions in relation to the legal order, the organization and attitude of the State, the scale of action, the content of education, etc.

19. In that study it should be decided which priority activities should be undertaken by the Government and the State in general through their various bodies, and for this purpose the Office of the Presidential Adviser must be the major source of guidance and support. This means that the Office must prepare itself to assume a permanent and growing role in advising the Office of the President of the Republic and, through it, the entire Colombian Government, particularly the Ministries of the Interior, Justice, Defence, Foreign Affairs, Education, Public Health and Labour and the other State bodies which are directly or indirectly responsible for the realization of human rights, so as to ensure that what is achieved through one State agency is not cancelled out by the acts or omissions of another.

20. Moreover, since the aim is to ensure the existence of an increasingly democratic society and human rights are interdependent in their political, economic, social and cultural aspects, it is important to envisage the enjoyment of the entire range of human rights - rights relating to public

freedoms; economic, social and cultural rights; and collective rights such as the right to peace, the right to development and the right to a healthy environment.

21. To this end, it should be pointed out that in Colombia, alongside human rights relating to public freedoms, it is essential to emphasize economic, social and cultural rights, because the extreme poverty of broad segments of the population renders those rights ineffective. The same can be said of rights relating to the environment, peace and development, which are frequently impaired by various factors. These new tasks should be carried out by the Office of the Presidential Adviser through its advisory function.

22. As part of the same function, the Office should make an in-depth, systematic study of all matters relating to international human rights law and international humanitarian law in order to verify Colombia's compliance. Advisory activities in this area should also include a detailed examination of the internal legal order so as to bring it into line with the commitments deriving from international treaties signed by Colombia. This updating of the various laws and regulations in the light of international human rights standards will ultimately be the best guarantee of their implementation.

23. In performing its work, the Office of the Presidential Adviser has found it necessary to assume a coordinating function in relation to the various State bodies that are connected in one form or another with the implementation of human rights. Obviously, human rights are closely linked to various areas of social life and State activity, and their effective enjoyment demands concordant action by the State as a whole.

24. To this end, the Office of the Presidential Adviser has established an inter-agency group comprising the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Labour, the Office of the Attorney-General of the Nation, the National Police and the Administrative Security Department (DAS), and has thus been working not only in the case-handling network but also on the general interchange of other kinds of information and the adoption of joint attitudes conducive to the promotion and protection of human rights.

25. The mission noted the absence from this inter-agency group of a representative of the Ministry of Justice and the fact that there has been little high-level coordination.

26. The Office of the Presidential Adviser has also ensured coordination at the municipal level through the municipal attorneys and the municipal human rights committees, in which provision is made for participation by members of the public.

27. While the mission was able to note a high and significant rate of activity by the municipal attorneys, it did not receive similar information on the municipal committees. These committees have not thrived in areas dominated by violence since many of their members have been threatened or even murdered. Nor did the mission receive information on the appropriate follow-up of this project.

28. This coordination effort must be expanded so as to be able to respond to the functions deriving from the new policies carried out by the Office of the Presidential Adviser as part of its role of promoting human rights in the Government context.

29. To this end, it is essential to establish a Commission at the highest political and administrative level to ensure the implementation of human rights policies by the Ministries of the Interior, Foreign Affairs, Justice, Defence, Education, Labour and Health, the Office of the Attorney-General of the Nation, the Office of the Procurator-General of the Nation, the Office of the Ombudsman, the National Police, DAS and other bodies with national responsibility for vulnerable groups.

30. Coordination for such a Commission would be assured through an Executive Secretary, a function to be performed by the Presidential Adviser for Human Rights.

31. The present inter-agency working group organized around the case-handling network project would continue to play an important role under the authority of the Office of the Ombudsman.

32. For a function of such vital importance as the coordination of human rights policies, it is also essential to ensure the active participation of the public. The Office of the Presidential Adviser will also have to assume responsibility for coordination for this purpose so that the non-governmental organizations concerned can freely express their opinions, present action plans and engage in joint activities.

B. Education

33. In the area of education, the mission will consider three basic aspects of the service provided by the Office of the Presidential Adviser:

Dissemination of information and informal education

34. "Dissemination" means in general campaigns and action directed at the population at large or at a specific segment of it. Informal education, on the other hand, includes action designed to provide information on human rights to target groups and communities not covered either by the formal education system or by any professional service.

Training

35. "Training" is defined more narrowly to mean educational activities aimed at specialized occupational groups.

Formal education

36. This includes activities within the national institutionalized education process, which can be divided, structurally, into preschool, primary, secondary and higher education.

37. In order to respond to these needs, the Office of the Presidential Adviser has an interdisciplinary team made up of professionals from the legal, educational and social science sectors. The Office has also organized working teams of specialists and officials from other academic and administrative bodies, and members of non-governmental organizations and of the target groups themselves.

38. A number of approaches have been adopted in conducting these activities, including research or surveys, sensitization and education by means of seminars, and advisory services and follow-up for those directly responsible for programme implementation.

1. Dissemination of information and informal education

39. The representatives of the various governmental and non-governmental institutions interviewed by the mission all acknowledged that, when the Office of the Presidential Adviser was first set up, human rights activities were viewed with considerable mistrust in Colombia and were in general restricted to a few bodies whose work was dismissed unfairly as politicized and in some cases even subversive.

40. The Office of the Presidential Adviser was recognized as having contributed significantly to enhancing the credibility of the debate on human rights in Colombian society. This was also acknowledged, as stated earlier, by most of the representatives of non-governmental organizations consulted, which is significant as an indicator of the measure of trust built up by the Office among a wide sector of the target population.

41. The Office has thus taken the first step towards gaining credibility among non-governmental human rights organizations and public institutions connected with human rights. However, the mission found no evidence of the systematic introduction of any other broader-ranging information programme.

42. Although the mission learned incidentally of a campaign being conducted through the mass media, it is clear that little has been done to produce the necessary impact among the population at large. A particularly urgent task is to persuade the mass media to publicize the debate on human rights, the observance of human rights and the need for peaceful solutions to national problems.

43. The publication by the Office of the Presidential Adviser of the review Derechos Humanos has proved to be worthwhile. It should be understood, however, that this review is aimed at a limited circle of informed individuals and human rights organizations in Colombia. Consequently, its audience is restricted to the target groups described above.

44. The mission found no popular practical guide informing the general public of the various services offered by public human rights offices and institutions.

45. Seminars conceived as forums with a wide and varied participation, and aimed at extension officers, have represented the main approach to the development of informal education.

46. The Office of the Presidential Adviser has also emphasized the exchange of experience among the various target populations of the forums and of the working groups. A prime example is the "AIDS and human rights" group.

47. Contact with municipalities has opened up a line of community action which includes the analysis of aspects of daily life and the problems of sex-based discrimination. This community action has been given special priority.

48. There is nevertheless a noticeable lack of any specific programme for marginalized young people in the major cities, who have no access to education or work. The municipal attorney of the city of Medellín told the mission that there were some 80,000 young people in that situation there.

2. Training

49. The Office of the Presidential Adviser has undertaken an extensive basic legal training programme again aimed at extension officers in various organizations, including officials from other public institutions, municipal attorneys, trade-unionists, and members of the security and police forces.

50. The mission had an opportunity to observe how the project was working in the cases of municipal attorneys, the police and the armed forces.

51. The municipal attorneys receiving training show a high level of motivation, attending seminars and receiving encouragement and advice from the Office of the Presidential Adviser.

52. With regard to the content of the training, the mission noted some inadequacy in the understanding of protection mechanisms, which municipal attorneys endeavour to make up for by active use of their good offices. Moreover there is a shortage of training materials available to the public.

53. The police training programme is at the pilot project stage. Three seminars for senior police officers have been held in the last two years and two seminars are planned for 1993. The mission was informed that some 8,000 (out of 80,000) police constables had received training in human rights in the 18 police schools distributed throughout the country. The officials of the National Police training service expressed satisfaction with the courses provided and with the inclusion of human rights as a subject in the police school curriculum. It should be noted, however, that no specific course on human rights yet exists in the curriculum. The Office of the Presidential Adviser did not participate in the revision of the textbooks used by the students, although the mission was informed that human rights education was being taken into account in preparing them.

54. The training programme for the armed forces is in its early stages. The Office of the Presidential Adviser has promoted and participated in two courses for officers, emphasizing humanitarian law. In this regard, the attitude of the army high command towards the training programme is a sensitive matter. Accordingly, the mission interviewed senior officers in the armed forces and found no opposition to the programme.

55. The mission was not aware of any training programmes for officials of the Office of the Attorney-General of the Nation or of the Office of the Ombudsman. In the latter case, the Office of the Presidential Adviser has been more concerned with coordination and the transfer of staff. The mission also attached particular importance to assessing the results of the training of officials of the Office of the Government Attorney for Human Rights. Unfortunately, the mission's request for an interview was at first refused and subsequently, when the Office expressed its willingness to receive the mission, the respective timetables made this impossible.

3. Formal education

56. This is one of the most developed areas in the programme of the Office of the Presidential Adviser. To implement the project, a coordinating team has been set up at the Office itself to initiate pilot projects with the New Delhi Education Unit and the Colegio Rodrigo Lara.

57. In addition, highly organized working groups were set up in Cali and Medellín. There has also been some project activity in Barrancabermeja, Bucaramanga, Buenaventura, Manizales and other cities.

58. According to the reports of the Office of the Presidential Adviser, the project has reached a target group of 363 teachers (extension officers), 222 principals, 91 administrators, 59 advisers, 12 students and 47 persons from other professions.

59. The process has been followed by a team of 14 researchers and 65 assistant researchers (participation of target organizations).

60. During the first few years of its existence, the Office of the Presidential Adviser conducted numerous publicity and information campaigns. The impact of this period has not yet been examined on a systematic basis, although the information received points to a high level of acceptance. Some teaching materials have also been produced and published. These activities have served to consolidate the Office's team of specialists, who show a high level of ability, experience and motivation. This is a great success.

61. More recently, a more systematic investigation has been initiated with a view to arriving at a clearer picture of the current situation regarding human rights education in some of these regions. This involves a survey of the teaching resources developed by teachers themselves, even though they may not contain specific human rights components. There is a back-up bibliography on the epistemological basis of this process, although there is some degree of uncertainty among the various members of the team.

62. The long-term aim of the project is "the school as a cultural project, involving curriculum development and the devising of methodological guidelines for making the education system not only a disseminator of democratic values within the school itself, but a promoter of those values in the life of the community concerned".

63. The broad educational scope of this proposal demonstrates the soundness and maturity of the project, which should be backed up by a similar programme on the legal and axiological content of the various human rights instruments and of the Constitution itself. In this regard, the programme is deficient.

64. As far as could be seen, no provision for the teaching of civics based on human rights theory either exists or is planned. There is also a shortage of teaching material.

65. During the field visit to Cali, the mission observed very worthwhile initiatives being taken by the teams, such as the establishment of a documentation centre, which deserves support and should be emulated in other towns.

4. Evaluation and conclusions

66. Under the 1991 Constitution, the Ombudsman is responsible for ensuring the promotion, exercise and dissemination of information on human rights, as well as for recommending policies for teaching them (art. 282).

67. As a result, most of the tasks currently performed by the Office of the Presidential Adviser in this regard will in principle be transferred to the new institution. This calls for the following observations:

(a) The Office's technical team and its programmes should, as far as possible, be maintained in the new institution, for otherwise the achievements of several years of work on the project will be lost;

(b) The Office, as counsellor to the President, will have to coordinate closely with the Ombudsman in this field;

(c) The reorganization process should be gradual. One year might be a reasonable period. An appropriate plan with objectives and a timetable should be drawn up. Human resources should be carefully evaluated so that they can be given priority attention in the preparation of the plan;

(d) The above-mentioned objectives should be clearly explained to counterparts and recipients so as to avoid damaging the relationship of trust which has been built up;

(e) There could be areas such as law and order where the comparative advantages might make it desirable for projects to be co-sponsored by the Office of the Presidential Adviser.

68. The following evaluation and conclusions are made bearing in mind that the final recommendations may be implemented by either body, according to the development of the process described.

69. The Office of the Presidential Adviser has played a significant role in developing the credibility of the debate on human rights in Colombian society. Thus far, its impact has been restricted largely to State institutions and interested non-governmental organizations.

70. Despite the challenge already faced, provision should be made for a greater impact on large sectors of the public. This will make proper use of the mass media essential.

71. The above objectives call for a general dissemination strategy which must take account of actual conditions in Colombia if it is not to remain superficial. In formulating the strategy, it would be advisable to conduct opinion polls before (diagnostic) and after (evaluative) the campaigns, together with a very careful selection of the target groups.

72. The review Derechos Humanos has been a success and shows the institution's capacity for sustained effort in carrying out projects. Its specialized nature should be accentuated and it should be aimed at academic and high-level political circles. The Office of the Presidential Adviser should also launch another publication for mass consumption. All of these activities should be in accordance with a policy devised and supervised on an annual basis by a publications board.

73. Popular practical guides might also be produced to provide the public with information on the services provided by the various governmental and non-governmental bodies in the human rights field.

74. The pluralism and scope of the seminars are the basis of the credibility gained by the Office of the Presidential Adviser. This is an achievement, as is the selection of extension officers. In theory, a project such as this should not involve training as such, but should prepare trainers.

75. The training of municipal attorneys, community work and the participatory approach to this, which includes emphasis on participation of women, was also seen by the mission as a broad-impact programme. It is suggested that a programme should be devised specifically for young people in marginal sectors.

76. With regard to the training of municipal attorneys, the mission noted the need for a practical manual for consultation by the officials concerned. The mission was shown the manual and found that, while it was essential, it did not correspond strictly with what is suggested here, in that it did not have the recommended practical character.

77. The mission considers it essential for the police training project to include a review of the teaching manuals used in police training schools. It also considers very valuable the link established with the Ministry of Defence and recommends that this programme should continue.

78. Another priority is to devise a training programme for members of bodies connected with the administration of justice, particularly the Offices of the Attorney-General and the Procurator-General of the Nation.

79. In the area of formal education, the first stage of the awareness campaign aimed at educators has been satisfactory. It is a good idea to work with teacher-training centres such as the one in Cali.

80. Research, which strictly speaking is really a participatory inventory of needs and teaching resources in education centres, together with the preparation of a diagnostic survey, is a sound approach. However, it would be advisable to clarify objectives and methods with all members of the team in order to ensure a higher level of interaction. A procedure should also be devised for processing information and analysing results.

81. Particular emphasis should be placed on the study of the Constitution and international human rights instruments by team members in order to place the teaching of human rights principles and values on a systematic basis and also to prepare documents for the conduct of the diagnostic survey and the creation of teaching materials.

82. In conducting the present experiments and in drawing up the proposal in its final form, provision should be made in the curriculum for the systematic development of the theory of human rights by making use of the time allocated for the teaching of the Constitution. A different approach to the teaching of civics as an essential part of the curriculum should also be encouraged.

83. In the formal education context, projects should begin to be differentiated on the basis of age, level of education and cultural characteristics of the target group.

84. It would be advisable to draw up a master plan of the programmes based on the observations in the preceding paragraphs.

85. This planning should cover all areas and extend over a three-year period, with annual reviews to provide for updating and adjustment of project targets, plans and objectives.

86. It would also be advisable to improve contacts with other countries carrying out comparable projects so as to make the most of resources and of the results achieved. Accordingly, the present efforts of the Office of the Presidential Adviser, which are seen as highly productive, should be expanded.

87. We suggest that internal resources should be allocated to maintaining a continuous and more systematic evaluation procedure and strengthening it with longer-term external advisory services.

III. PROTECTION ACTIVITIES

A. Handling of cases

88. The Office of the Presidential Adviser has played an active part in dealing with cases of human rights violations. What it has basically done has been to establish machinery for the collection of information on cases. This activity has remedied the lack of appropriate bodies handling this matter. An essential contribution to the development of this activity has been made by the imaginative approach adopted and the lack of bureaucracy in the form in which it was conceived from the outset.

89. The case-handling procedure is as follows: firstly, the Office has developed a flexible system, the main characteristic of which is that it informs itself concerning the complaint before it. Next, both the complaint and the alleged victim are steered to the competent authority. Lastly, the matter is pursued and the interested parties are informed.

90. It is a feature of this procedure that it was devised in the light of practical experience and that it has served for handling and providing information both on cases within the domestic sphere and on cases that have been reported in the international sphere (whether governmental or non-governmental).

91. There has been some difficulty in the institutional context in which this nascent protection service is provided because of the need for coordination between the various official case-handling bodies. These include the Office of the Government Attorney for Human Rights (administrative matters), the Office of the Attorney-General of the Nation (criminal matters) and offices or departments within other bodies: the Ministry of Foreign Affairs (international matters), the Ministry of Labour (complaints lodged with the International Labour Organisation), the Ministry of Defence and the National Police (disciplinary matters) and also ad hoc committees such as that which had to be set up in the Ministry of Education to deal with cases of urgent pleadings to safeguard the life and physical integrity of threatened teachers.

92. The Office of the Presidential Adviser has made good use of the inter-agency case-handling group. It is quite evident that the group has increased the Government's response capacity and has rationalized remedies.

93. The handling of the aforementioned tasks has been backed by such technical resources as the establishment of a computerized system for the registration of cases (more than 6,000). In its inspection of the system, the mission found it to be in a consolidation phase. It will, however, be necessary to carry out a debugging operation on the content of the data, i.e. correct registration of the case-identification data and appropriate conceptualization of the data. It was noted that the system is, by its very nature, not an exhaustive record of the cases that come up in the country.

94. It emerged from the mission's interviews that the users of the network are, in the main, official bodies, and that the persons responsible for the system in the Office of the Presidential Adviser are the only ones to have access to it.

95. In some cases the efforts made have undoubtedly helped to avoid a worsening of the effects of the violence. It is also obvious to the mission that endemic violence is the fundamental problem of Colombian society. This situation has profoundly damaged the rule of law and is reflected in the very high rates of impunity. Official bodies and non-governmental organizations repeatedly gave the mission their assessments of the inefficiency of justice in the country.

96. Subjects that came up repeatedly in the interviews held were disappearances, abduction, arbitrary detention, disregard of the right to life, the traffic in drugs and phenomena connected with clashes between the various armed groups, the corruption of members of the national police and the abuse of force on occasion by the military.

97. It seems an impossible hope that the structural causes of violence and the violations of human rights in the country may be decreased by the work of bodies such as the Office of the Presidential Adviser or the Office of the Ombudsman that deal with complaints. The work of these bodies is, none the less, essential and important in decreasing the scope of the effects of human rights violations in the country.

98. The mission was also interested to acquaint itself with cases concerning economic, social and cultural rights. The Office of the Presidential Adviser has developed special informal procedures to deal with these concerns and it would appear that a new field of great interest is opening up.

99. The mission also took note of the decentralization of case-handling now in progress under the municipal attorneys programme, the establishment of permanent offices to deal with the public in Cali and Medellín and the establishment of an emergency telephone line to handle urgent cases throughout the country. All these measures are considered to be technically correct.

Assessment and conclusions

100. In accordance with the 1991 Constitution, it seems appropriate that the current responsibilities of the Office of the Presidential Adviser for case-handling should be discharged in the future by the Office of the Ombudsman.

101. On the other hand, in cases of violations that have been reported in the international (intergovernmental and non-governmental) sphere, the Office of the Presidential Adviser is the institution best suited to coordinate the various public bodies and prepare the Government's replies to the international organizations, entrusting the act of presentation, as is logical, to the Ministry of Foreign Affairs in coordination with the Office of the Presidential Adviser.

102. The effort made to computerize case-handling has practically no equal in any other public body of this kind in Latin America and constitutes a real success for the Office of the Presidential Adviser. It seems appropriate that the resources in material and manpower for this effort should be shifted to the Office of the Ombudsman and that the Office of the Presidential Adviser should be connected to the system through a terminal. A plan setting out the objectives and a time-scale should be formulated for this purpose.

103. The foregoing does not rule out the urgent need to debug and update the information.

104. The mission also considers it appropriate to recommend that the list of complainants and the list of witnesses should be deleted from the system.

105. The case network will have to promote its activity through the transfer of powers in the matter to the Office of the Ombudsman, the debugging of the data in the network, and the universalization of cases with the aim of coming closer to the reality of the human rights situation and responding more effectively to the needs of users and victims.

106. The mission emphasizes the importance of this general task carried out by the Office of the Presidential Adviser for the protection of human rights in Colombia in recent years, which has had a favourable repercussion on the credibility of the institution. Similarly, it stresses the importance of the decentralization process and the opening of permanent offices in the charge of the municipal attorneys, where the public can receive attention. The emergency telephone line is also stressed, in which context it is noted that it is opportune for it to appear along with other emergency telephone lines in the telephone directory.

107. During the mission's field visit and in the course of its interviews it was found that there was a high level of acceptance for the new role of the municipal attorneys in accordance with the new Constitution and the project promoted by the Office of the Presidential Adviser, and that the service was practical and efficient.

B. Provision of good offices

108. Urgent protective action of a humanitarian nature extended to the victims of violence has been no less important than the case-handling network. On two occasions the representatives of bodies interviewed supplied the mission with examples of individuals whose life had been saved by the prompt and decisive action of the Office of the Presidential Adviser.

109. This function of governmental intervention or good offices is directed towards the search for an immediate solution to the case, especially in the area of prevention, when it may still be possible to put a stop to an outrage, or in the area of administrative action to prevent its repetition.

110. The Office has been developing this function and it is expected that, backed by a better and faster-responding State structure of human rights, it may in the immediate future be exercised in a manner capable of preventing the carrying out of arbitrary acts, given timely warning, or of preventing their repetition when, unfortunately, the acts have already taken place.

111. This intervention function has particular relevance in that it provides effective and rapid protection for human rights and enables the State interest in this sphere to be endorsed by specific acts.

112. This activity should be provided without prejudice to the concurrent duties of the Office of the Ombudsman and, naturally, without prejudice to the judicial machinery established for the protection of human rights.

IV. CONCLUSIONS AND RECOMMENDATIONS

113. The mission wishes to reiterate its gratitude to the Government of Colombia and, in particular, to the Presidential Adviser and his staff for the valuable cooperation that it received in the performance of its duties. Likewise, the public authorities and the representatives of the non-governmental organizations with whom the mission had interviews contributed notably to the information put at its disposal.

A. Conclusions

114. The mission has already made it clear that the original expectations raised in UNDP project COL/91/017 were completely out of line with the resources and possibilities of the Office of the Presidential Adviser faced with the prevailing human rights situation in Colombia.

115. For this reason, the mission deemed it more important to concentrate its assessment on the activities actually carried out by the Office while this project (COL/91/017) was in operation.

116. On the basis of its examination of these activities, the mission concludes that the Office has done praiseworthy and important work for the promotion of human rights in such areas as advisory services, education, dissemination, training and information regarding cases of serious human rights violations.

117. The mission considers the opening of institutional channels for the development of the discourse on human rights to be a historic achievement of the Office of the Presidential Adviser. As a result, the Office has gained well-deserved credibility, not only with public and State institutions, but also with the majority of the country's non-governmental organizations.

118. Although case-handling is of special importance as a means of information, activities for the protection of human rights, in the strict sense, were of lesser magnitude owing, inter alia, to the Office's lack of sufficient powers in the matter of protection.

119. Despite that, by virtue of the imagination and goodwill of its staff, the Presidential Adviser was able to provide his good offices in particular circumstances and even at times to save lives.

120. With regard to advisory services, the mission had difficulty in fully appreciating the scope of this activity by the Office owing to its lack of planning and systematization. At all events, there are indications that a significant amount of counselling has been provided in some cases.

121. The Office has initiated coordination procedures between the bodies in the public sector. However, such coordination has remained at the technical level.

122. On educational matters, it is noted that there have been some sound initiatives in the selection of the persons to receive training, although the training itself ought to be expanded. The teaching project is at the start of its consolidation phase, and it is vital for its development and that of general education itself to initiate active production of teaching materials. Dissemination of information is the least developed field in this sector because of its limited scope.

123. Having regard to the new structure of State institutions within the framework of the 1991 Constitution, the Office of the Presidential Adviser should redefine its duties and profile so that it can perform its new advisory and information functions more systematically.

B. Recommendations

124. Aside from the specific recommendations that are made in the various parts of this report and that it would be pointless to repeat, the mission would like to submit the following recommendations for the consideration of the parties:

1. Advisory services

125. Advisory services should be the prime function of the Office of the Presidential Adviser as it exists following the new Constitution. Consequently, it will have to make a deeper study of national reality for the framing of governmental policies to promote and protect human rights. In particular:

(a) Review of legal texts that are potentially unconstitutional;

(b) Study of the ratification of international treaties on human rights to which Colombia is not yet a party. Equally, tendering advice on compliance with and implementation in domestic law of the decisions and resolutions of the international (universal and regional) human rights bodies of concern to Colombia, and the recommendations and general observations made on Colombia by various committees of the United Nations, as well as the working groups and special rapporteurs of the United Nations Commission on Human Rights;

(c) Advising on and requesting the authorities to adopt strict disciplinary measures, including dismissal from the service, against officials accused of serious violations of human rights;

(d) Advising that no special legislation capable of restricting basic human rights and procedural guarantees be adopted during states of emergency;

(e) Promotion of better official protection for defenders of human rights;

(f) Advising in favour of legislative development of article 250 of the Constitution, for the purpose of ensuring that violations of human rights committed by the forces of law and order should under no circumstances be dealt with by the military courts;

(g) Encouraging and assisting initiatives aimed at improving the administration of justice in Colombia and making it more efficient, inter alia, in the following areas: compilation of a central register of detainees; unification of the criminal investigation service into a single body under the direction of the Attorney-General of the Nation; an increase in the number of prosecutors and officers of the criminal investigation service; improvement of their investigation methods; strengthening of the Office of the Government Attorney for the protection of victims and witnesses, etc.;

(h) Provision of facilities for periodic visits by the International Committee of the Red Cross to detention centres, especially to the self-styled political prisoners;

(i) Strengthening of the programme of the Office of the Ombudsman, obtaining international cooperation for its better development and improvement of its scope;

(j) Promotion within the limits of its competence of the machinery for investigating cases of human rights violations;

(k) Attention to compliance with international humanitarian law;

(l) Affirmation that the Office of the Presidential Adviser should contribute within the framework of its activities to increasing public awareness of the recourses of protection and habeas corpus.

2. Coordination

126. The recommendations on coordination are:

(a) Encouragement for the establishment of a Commission at the highest political and administrative level to ensure that the human rights policies of the Government are carried out. The existing inter-agency working group on the case-handling network will continue to operate independently under the authority of the Office of the Ombudsman;

(b) Strengthening the municipal human rights committees, promoting their launching and, where appropriate, giving decisive backing to their work. These committees should include representatives of community and religious organizations;

(c) Assistance in ensuring a smooth transfer of powers from the Office of the Presidential Adviser to the Office of the Ombudsman;

(d) The Office of the Presidential Adviser should coordinate the activities of the various administrative departments in respect of the drafting of Government reports for submission to the various international (universal and regional) bodies in compliance with Colombia's international treaty obligations;

(e) Preparation and coordination of replies concerning cases of violation brought before international intergovernmental bodies and non-governmental organizations of international scope.

3. Education

127. The majority of the recommendations concerning human rights education have been developed in the body of the report. The mission will therefore reaffirm them, with the following amplifications and additions:

(a) In application of the constitutional mandate, a course in civics should be promoted as a compulsory subject at primary and secondary level on the basis of dynamic study of the Constitution and of human rights;

(b) It is suggested that priority be given to the preparation of teaching materials and practical manuals to satisfy existing needs in all projects in the educational field. Documentation will likewise need to be strengthened;

(c) Among the elements to be taken into account in the training of attorneys, special stress will be needed to be laid on the machinery for the protection of human rights, and specifically on the recourses of protection and habeas corpus;

(d) The mission supplements its recommendations on programmes addressed to the security forces, noting the need to increase the numbers of beneficiaries and to associate the International Committee of the Red Cross as co-sponsor;

(e) With regard to the teacher-training project, it is recommended that extension-officer teams, similar to those already formed in Cali and Medellín, should be set up in other cities in which the Office of the Presidential Adviser works;

(f) It is recommended that the Office of the Presidential Adviser should promote human rights training for the staff of the Government Procurator's Office, the Office of the Attorney-General and the judiciary, gradually and in accordance with an orderly plan; it is further recommended that links be established with higher educational bodies in their own projects and initiatives;

(g) In the area of dissemination, the mission recommends that some of the anti-corruption campaigns be given guidance.

4. Institutional policy

128. The mission felt the need to address some general matters that affect human rights and that, consequently, the Office of the Presidential Adviser should take into account when planning its activities:

(a) The mission recommends and regards as essential the study, analysis and formulation of proposals for general policies grounded in human rights and concerning the following serious national problems:

(i) Eradication of paramilitary groups;

(ii) Terrorism;

(iii) Drug trafficking;

(iv) Widespread armed violence;

(v) Impunity;

(vi) Corruption;

(b) The mission also considers that the following should be stressed as overriding aims of all government projects:

(i) Pacification of the Republic;

(ii) Establishment of dialogue as an appropriate means of settling social conflicts;

(iii) Full operation of the rule of law and the protection of human rights;

(iv) Disarmament of the civilian population through adequate measures for the control of force and the means of force;

(c) The mission recommends that the Office of the Presidential Adviser give priority attention to vulnerable groups, identifying in particular the following: the indigenous population, internally displaced persons, victims of violence, children, women, prisoners and rehabilitated persons;

(d) The Office should also place emphasis in its policies on expansion of the presence of the State in rural areas and suburban and marginal districts;

(e) The Office should also continue its successful policy of strengthening the presence and role of civilian and religious organizations in all spheres of public activity and especially those in which State institutions are not yet present.

129. The mission recommends that the United Nations Development Programme should continue its support to the Office of the Presidential Adviser, financing some projects along the lines of those recommended in the foregoing paragraphs. The practical expression of international solidarity with the Government and people of Colombia should mean decisive support for projects launched to achieve full operation of human rights.

130. Having regard to the urgent need to provide a solution to the many problems facing Colombian society, the Government and the international community should strengthen their cooperation on human rights. In particular, the United Nations should expand its cooperation programmes to improve the human rights situation in the country.

131. The mission is aware that this report is not a definitive study of all the problems besetting Colombian society in the sphere of human rights. Nevertheless, it may be a contribution to the discussion on the future role of the Office of the Presidential Adviser which should take place between its officials and employees, and with those in the governmental and non-governmental spheres with whom it maintains regular contacts.

132. The mission recommends that the Office should be named the "Office of the Presidential Adviser for Human Rights".

Annex

PROGRAMME OF WORK OF THE MISSION

7 December 1992	(Bogotá)
	Inauguration of the mission Mr. Arturo Hein Cáceres, UNDP Resident Representative Place: UNDP Headquarters (Transversal 15 119-89) Consultants: Beatriz Londoño, Mauricio Hernández Mondragón
	Working meeting with Dr. Jorge Orlando Melo, Presidential Adviser for Human Rights, Director of UNDP project COL/91/017
	Meeting with senior staff of the International Section of the Presidential Adviser's Office and the Case-handling Section Consultants: Clemencia Gómez and Alix Duarte Responsible officer: Beatriz Londoño, consultant
	Meeting with Interagency Working Group on Human Rights, Coordinating Body Responsible officer: Clemencia Gómez
8 December 1992	(Bogotá)
	Meetings with the Presidential Adviser on Human Rights and the UNDP Resident Representative in Bogotá
	Meeting of the Aids and Human Rights Group Responsible officer: Beatriz Londoño, consultant Place: UNDP Headquarters (Transversal 15 119-89)
	Departure for the city of Cali
9 December 1992	Meeting with Project for Education on Human Rights in the Official System of the Department of Valle Participants: Dr. Natanael Díaz - CEP, Dr. Adolfo Alvarez - Peace Adviser's Office, National Forum for Colombia, Dr. Luz Marina Tamayo, Dr. Yvette Adames - Secretariat of Education of the Department and other teaching staff on the project

	Meeting with the Representative for Human Rights, Dr. Hernán Sandoval
	Return to Bogotá
	Mgr. Guillermo Vega Bustamante - Coordinator, Committee on Justice and Peace of the National Secretariat of the Episcopate
10 December 1992	(Bogotá)
	Committee for Solidarity with Political Prisoners - Dr. Jaime Prieto
	Attorney-General of the Nation, Dr. Gustavo de Greiff
	Human Rights Inspectorate of the Attorney-General's Office
	Amalgamated Workers Union (CUT) - Mr. Héctor Fajardo
11 December 1992	(Bogotá)
	Human Rights Education Group: Educators Martha Cárdenas, Antonio Javier Jaramillo, Lucila Cardona, Pedro Lucas Gamba, Edna María Sinisterra, Clara Martínez and Cristina López
	Dr. Jorge Orlando Melo, Presidential Adviser for Human Rights
	Education Directorate of the National Police - Colonel Luis Ernesto Gillibert Vargas - Educational Director: Lieutenant-Colonel Alba, Gladys Castañeda de Beltrán - Educational Adviser
	Minister of National Defence Dr. Rafael Pardo Rueda
	Sergio Estarita Herrera - Municipal Attorney and President, Colombian Federation of Municipal Attorneys
	Dr. Eduardo Umaña Mendoza, Lawyer
12 December 1992	(Bogotá)
	Mr. Jaime Córdoba Triviño, Ombudsman, and his assistants

	Mr. Gustavo Gallón Giraldo and Mr. Alejandro Valencia, members of the Andean Commission of Jurists
	Father Francisco de Roux, People's Research and Education Centre (UNEP)
	Dr. Apolinar Díaz Callejas
13 December 1992	(Bogotá)
	Internal meetings of the mission to prepare its evaluation report
14 December 1992	(Bogotá)
	Internal meetings of the mission to finalize its evaluation report
15 December 1992	(Bogotá)
	Presentation of the mission's evaluation report to the Presidential Adviser for Human Rights and the UNDP Resident Representative
	Submission of the report to the President of the Republic, Mr. César Gaviria Trujillo
	Departure from the country

Appendix

COMMENTS BY THE GOVERNMENT

On 13 August 1993 the Permanent Mission of Colombia to the United Nations Office at Geneva forwarded to the Assistant Secretary-General for Human Rights a letter from the Deputy Minister for Foreign Affairs, Mrs. Wilma Zafra Turbay, which refers to her Government's comments on the report of the evaluation mission. These comments are as follows:

"The Government of Colombia wishes to express its appreciation to the United Nations Development Programme (UNDP) and the United Nations Centre for Human Rights for the interest they have shown and for their cooperation with Colombia in the conduct of the evaluation mission on project COL/91/017.

"This evaluation mission carried out its assignment from 4 to 15 December 1992 and was composed of: Mr. Gonzalo Elizondo Breedy, of the Inter-American Institute of Human Rights, representing UNDP; Mr. Carlos Villán Durán, representing the United Nations Centre for Human Rights; and Mr. Eduardo Suescún Monroy, representing the Government of Colombia.

"In agreeing with the UNDP Representative's Office in Colombia to the conduct of this evaluation, the National Government and the Office of the Presidential Adviser for Human Rights were fully aware of the need to consider aspects that might directly or indirectly affect the attainment of the objectives of the project and take account of the influence which the implementation of the project activities might exert upon the complex situation prevailing in Colombia.

"The recommendations of the evaluation mission are extremely helpful and make it incumbent upon the Government to consider their practical feasibility and put them into effect to the extent that possibilities and resources allow and with the minimum delay. A good many of these recommendations point towards measures that were already being implemented or were in the process of consideration and adoption.

"The Office of the Presidential Adviser for Human Rights of Colombia was established in November 1987 as a means towards attaining the assigned objectives in respect of defence, promotion and protection of human rights in the country. In order to carry out its functions, the Government has used national resources and also multilateral and bilateral international cooperation through the Centre for Human Rights and the United Nations Development Programme.

"The Colombian Government has directly and spontaneously requested international cooperation, convinced as it was that, if it was to fulfil its commitment to ensure the nationwide enjoyment of human rights, the financial resources at its disposal were insufficient.

"Under the relevant agreements, the first experiment in tripartite cooperation between the Government, the Centre for Human Rights and UNDP has been carried out in Colombia. Our Government agreed to conduct this experiment because it was convinced of the need to put into effect a model of integrated cooperation within the United Nations reflecting the concept of development in its broad sense of promotion of the quality of life of the Colombian people in the economic and social sphere and the realization of civil and political rights.

"The immediate results show that, within the scope of the principles of the Charter of the United Nations, and given a spirit of cooperation by the State with the international bodies, it is possible to put constructively and voluntarily into effect this model of cooperation, which may indeed develop into the most appropriate means for the protection and promotion of human rights throughout the world.

"Such were the considerations that led to the signing of the agreements COL/87/017 and COL/91/017 for support to the Office of the Presidential Adviser for Human Rights. The latter agreement provided for an amount of two hundred thousand dollars (US$ 200,000) and its planned duration was twelve (12) months starting in October 1991.

"The Office of the Presidential Adviser for Human Rights wishes to emphasize that the design and initial planning of project COL/91/017 reflected a very optimistic attitude with regard to the possibility of mobilizing the necessary financial resources for achieving the planned results and carrying out all the activities of the project. It must be stressed that it was not possible to achieve all the results or implement all the activities with the resources of project COL/91/017 alone. This problem was very well understood by the evaluation mission, as its report indicates.

"Considering it as a matter of great importance, the parties to the agreements decided to conduct an evaluation with a view to submitting to the international community the conclusions drawn from this innovative experiment. Project COL/87/017 was evaluated in 1991 by the Costa Rican expert, Mr. Luis Varela Quirós, and project COL/91/017 was evaluated by the mission composed of one representative of each of the parties in December 1992, its final report being submitted to the parties for consideration in January 1993.

"The Government of Colombia considers that the report of the evaluation mission on UNDP project COL/91/017 must be read and analysed with due regard for the frank and open attitude of the Colombian Government and in consideration of the complexities, special features and nuances of the situation in Colombia; account must also be taken of the factors that conditioned the implementation of project COL/91/017, from the actual preparation of the project document to the circumstances that limited its execution and impeded the attainment of the ambitious objectives assigned.

"The Colombian Government has authorized the publication by the Centre for Human Rights in Geneva of the final report of the evaluation mission on UNDP project COL/91/017. However, with a view to clarifying and complementing the information contained therein, the Government would like to add the following comments:

"The report should contain a definition of the project in terms of general and immediate objectives, terms of reference, sum allocated and duration. The objectives are:

(a) General: Strengthening of the rule of law and the democratic system in Colombia. Its attainment is conditioned by overall circumstances affecting the national policy aimed at achieving peace and coexistence and at addressing the factors which, in the cultural sphere and in institutional and social practice, give rise to the various kinds of violence which have afflicted the country in recent years and destabilized the nation's institutional life. The project complements the efforts of the national government and of the departmental and local governments to re-establish democratic coexistence between Colombian citizens and make the new Constitution fully effective. Its efforts will contribute to creating appropriate human rights protection mechanisms for compensating those whose rights have been violated and punishing the culprits; for promoting departmental, regional and local protection policies designed to prevent violations and safeguard high-risk population groups; and for the education and training of officials, State employees and public organizations to achieve cultural, regulatory and institutional strengthening of human rights in the country;

(b) Immediate:

(i) Protection of human rights at the national, departmental and municipal levels, with the aim of strengthening the mechanisms for ensuring the restoration of the right infringed, the punishment of those responsible, and the award of appropriate moral and material compensation;

(ii) Strengthening the protection of human rights through the development of new constitutional mechanisms and consolidation of the existing ones with a view to creating and maintaining suitable conditions for the enjoyment of human rights and preventing any violations;

(iii) Promotion of full enjoyment of and respect for human rights in Colombian society, on the basis of teaching projects developed within the official State educational system, together with education and training of the State officials responsible for enforcing the law and with support and backing through the mass communication media for the dissemination of information on human rights and the mechanisms for their defence and protection.

"The report should also be situated in the context of the objectives and functions of the agency responsible for the execution of the project, and should indicate more clearly the programmes to be implemented under the agreement, because the Office of the Presidential Adviser for Human Rights covers a broader range of activities and its operations are backed by national resources allocated under agreements, resources assigned for the overall running of the institution, and resources forthcoming under bilateral agreements concluded with friendly countries.

"The work of the mission went beyond its actual objective, for an evaluation was conducted of the overall functions of the Office of the Presidential Adviser for Human Rights, from the viewpoint both of the tasks evaluated and of the methodology that was used to carry them out.

"The work of appraisal had to be done according to the methods established by the United Nations Development Programme for the evaluation of its programmes, with the adjustments necessary to show the scope and special characteristics of these agreements and thus highlight the integrated aspects of the cooperation and present the considerations necessary in order to point out the pilot nature of that cooperation.

"As far as the achievements of the project are concerned, it must be borne in mind that, in addition to the activities of the Office of the Presidential Adviser itself, account must be taken of the work of other State agencies at the national, regional, departmental and municipal levels. For example, mention might be made of the role of the one thousand and forty (1,040) municipal attorneys, one in each of the country's municipalities. Account should also be taken of the fact that the Office of the Presidential Adviser for Human Rights had and still has to negotiate in order to obtain financial resources for the implementation of its activities, both from the national budget and from international cooperation agreements with other intergovernmental agencies and from friendly countries.

"As regards the concrete achievements, in addition to those considered by the evaluation mission the following should be emphasized:

Strengthening of the Government's capacity to care for the victims of violence, using the resources of the Social Solidarity and Emergency Fund, whose budget for 1993 totals 16 thousand million pesos (Col$16,000,000,000), equivalent to 23 million dollars (US$ 23,000,000);

Strengthening of the judicial investigation machinery at the disposal of the Office of the Attorney-General of the Nation, to overcome the problem of impunity; reinforcement also of the operational and financial capacity of the Attorney-General's Office for protecting witnesses and victims of crime;

Implementation of intensive public information campaigns on the new Political Constitution through the mass communication media;

Activation and promotion of mechanisms for safeguarding fundamental rights and liberties through the recourse of protection;

Consolidation and strengthening of the Office of the Ombudsman, to the launching of whose activities the Presidential Adviser's Office has contributed by providing technical and human resources, as well as concluding agreements with foreign experts and providing them with guarantees that the Ombudsman's Office will go ahead with the programmes that are in operation in the areas of human rights education, the human rights defence system, strengthening of the municipal attorney's offices, handling of cases and special protection for vulnerable groups.

"Addition of the above-mentioned technical points and an explanation of the special characteristics of the international cooperation that took place in Colombia under these agreements will give the report the requisite clarity to enable readers to form an idea of the importance of this model of international cooperation which our Government initiated as an expression of a political will to commit itself to the cause of defending, promoting and protecting human rights, and which can offer guidelines for rationalizing the advisory services in the human rights sphere provided by the Centre and the development cooperation provided by UNDP."